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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IN RE GOOGLE PLAY CONSUMER  
ANTITRUST LITIGATION

Case No. 3:20-cv-05761-JD

**Administrative Motion to Consider  
Whether Cases Should be Related  
Pursuant to Civil L.R. 3-12**

Civil L.R. 3-12(b) and 7-11)

The Honorable James Donato

Pursuant to Civil Local Rule 3-12, Plaintiff Amos Kober respectfully moves this Court to consider whether his recently filed case, *Kober v. Google LLC, et al.*, No. 4:20-cv-08336-BLF (filed Nov. 25, 2020) (“*Kober Action*”), should be related to *In re Google Play Consumer Antitrust Litigation*, No. 3:20-cv-05761-JD (N.D. Cal.) (“*Google Play Case*”), the lowest-numbered, related case.

## **I. RELEVANT BACKGROUND**

On August 13, 2020, app distributor, Epic Games, Inc., filed an antitrust action against Google, alleging that Google’s unlawful monopolization of and exclusionary conduct in the market in which Android apps are distributed enables Google to impose a supra-competitive 30% tax on apps purchased from the Google Play Store.

Class actions on behalf of app consumers were then filed as follows:

- *Carr v. Google LLC, et al.*, No. 3:20-cv-05761 (N.D. Cal.);
- *Bentley, et al. v. Google LLC, et al.*, No. 4:20-cv-07079-DMR (N.D. Cal.);
- *McNamara v. Google LLC, et al.*, No. 3:20-cv-07361-JCS (N.D. Cal.);
- *Herrera v. Google LLC, et al.*, No. 3:20-cv-07365-JD (N.D. Cal.);
- *Carroll v. Google LLC, et al.*, No. 3:20-cv-07379-JD (N.D. Cal.);
- *Gamble v. Google LLC, et al.*, No. 3:20-cv-07984-JD (N.D. Cal.); and
- *Esquivel v. Google LLC, et al.*, No. 4:20-cv-08337-DMR (N.D. Cal.).

This Court consolidated the *Carr*, *Bentley*, *McNamara*, *Herrera*, *Carroll*, and *Gamble* Actions into the *Google Play Case* for all pretrial proceedings on November 20, 2020. (Dkt. No. 78.) And on December 1, 2020 and December 2, 2020, this Court found that the *Roberts* action and *Stark* action are related to the *Google Play Case*. The *Esquivel* Action have not yet been related or consolidated with the *Google Play Case*.

## **II. LEGAL STANDARD FOR RELATING CASES**

“Whenever a party knows or learns that an action, filed in or removed to this district is (or the party believes that the action may be) related to an action which is or was pending in this District as defined in Civil L.R. 3-12(a), the party must promptly file

in the lowest-numbered case an Administrative Motion to Consider Whether Cases Should be Related, pursuant to Civil L.R. 7-11.” Civil L.R. 3-12(b). Under Civil Local Rule 3-12(a), “[a]n action is related to another when: (1) The actions concern substantially the same parties, property, transaction or event; and (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” Civil L.R. 3-12(a).

### III. THE ACTIONS SHOULD BE RELATED

The *Kober* Action involves substantially the same subject matter as, and overlapping defendants in, the *Carr*, *Bentley*, *McNamara*, *Herrera*, *Carroll*, *Gamble*, *Roberts*, and *Stark* actions. Each complaint names as defendant Google LLC; challenges Google’s conduct with regard to the Google Play Store; and alleges that Google engaged in unlawful monopolization and restraints of trade in violation of federal antitrust law.

All plaintiffs in the consumer cases will likely seek the same or similar discovery from the Google entities and non-parties, and Google likely will proffer common factual and legal defenses and expert witnesses in each of the cases, thus rendering separate actions before different courts unduly duplicative, burdensome, and likely to result in conflicting results.

### IV. CONCLUSION

For the reasons set forth above, Plaintiff respectfully requests that the Court order the *Kober* Action related to the *Google Play Case*.

Dated: December 10, 2020

Respectfully submitted,  
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